

UNITED STATES PATENT AND TRADEMARK OFFICE



UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/041,117	01/08/2002	Donald F. DePalma	CRD0918	4482	
27777 75	08/12/2003				
AUDLEY A. CIAMPORCERO JR.			EXAMINER		
	N & JOHNSON PLAZA		MILLER, CI	CHERYL L	
NEW BRUNSV	WICK, NJ 08933-7003		ART UNIT	PAPER NUMBER	
			3738		
			DATE MAILED: 08/12/2003	/	

Please find below and/or attached an Office communication concerning this application or proceeding.

		. /Y K				
	Application No.	Applicant(s)				
_	10/041,117	DEPALMA ET AL.				
Office Action Summary	Examiner	Art Unit				
	Cheryl Miller	3738				
The MAILING DATE of this communication a Period for Reply	opears on the cover sheet with	n the correspondence address				
A SHORTENED STATUTORY PERIOD FOR REP THE MAILING DATE OF THIS COMMUNICATION - Extensions of time may be available under the provisions of 37 CFR after SIX (6) MONTHS from the mailing date of this communication If the period for reply specified above is less than thirty (30) days, a relative to reply within the set or extended period for reply will, by state Any reply received by the Office later than three months after the mail earned patent term adjustment. See 37 CFR 1.704(b). Status	.136(a). In no event, however, may a reply within the statutory minimum of thirty d will apply and will expire SIX (6) MONT the, cause the application to become ABA	ply be timely filed (30) days will be considered timely. HS from the mailing date of this communication. NDONED (35 U.S.C. § 133).				
1)⊠ Responsive to communication(s) filed on 22	? Mav 2003 .					
,	This action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims	,,,,,					
4)⊠ Claim(s) <u>1-9</u> is/are pending in the applicatio	n.					
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>1-9</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and Application Papers	/or election requirement.					
9) The specification is objected to by the Exami	ner.					
10) The drawing(s) filed on is/are: a) acc		ne Examiner.				
Applicant may not request that any objection to						
11) The proposed drawing correction filed on	is: a)□ approved b)□ di	sapproved by the Examiner.				
If approved, corrected drawings are required in	reply to this Office action.					
12)☐ The oath or declaration is objected to by the	Examiner.					
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for fore	ign priority under 35 U.S.C. §	119(a)-(d) or (f).				
a) ☐ All b) ☐ Some * c) ☐ None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority docume	2. Certified copies of the priority documents have been received in Application No					
3. Copies of the certified copies of the praper application from the International * See the attached detailed Office action for a limit	Bureau (PCT Rule 17.2(a)).					
14) Acknowledgment is made of a claim for dome	·					
a) ☐ The translation of the foreign language (15)☐ Acknowledgment is made of a claim for dome	provisional application has be	een received.				
Attachment(s)	- -					
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s	5) Notice of I	Summary (PTO-413) Paper No(s) nformal Patent Application (PTO-152) .				
S. Patent and Trademark Office	Action Summary	Part of Paper No. 7				

Application/Control Number: 10/041,117

Art Unit: 3738

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Dereume et al. (USPN 6,554,858 B2). See figures 5-8, 14, and respective portions of the specification.

Application/Control Number: 10/041,117

Art Unit: 3738

Referring to claims 1 and 9, Dereume discloses a system for bypassing an aneurysm comprising a first prosthesis (3, 11, 12) and at least one (13) or two (33) second prosthesis communicating with the first prosthesis, the first prosthesis (3, 11, 12) comprising a conduit defining a single fluid flow path (2) and having a proximal end configured to engage a section of an artery upstream an aneurysm (fig. 14), and a compressible gasket (sections 5 and 6 of 4; col.5, lines 28-29, gasket is said to be flexible and it is attached to outer stent graft of first prosthesis and stent graft of second prosthesis, therefore will compress as the first and second prosthesis compress) positioned in an interior of the conduit (fig. 7), the gasket including at least one aperture (7, 8) for receiving the second prosthesis (13, 33) to create a fluid flow path (30), wherein the second prosthesis (13, 33) is configured to provide a fluid flow path through the aneurysm and an anchor in an artery downstream an aneurysm (fig. 14).

Referring to claims 2 and 3, Dereume discloses a first prosthesis (2, 11, 12) comprising a stent (3) and graft material (11, 12) communicating with the stent, wherein the stent and graft define a fluid flow path (2) through the prosthesis.

Referring to claim 5, Dereume discloses a gasket (sections 5, 6 of 4) configured to receive two second prosthesis (13, 33, see fig.7).

Referring to claims 6-8, Dereume discloses the second prosthesis (13, 33) comprising a stent (14) and a graft (15) material communicating with the stent, wherein the stent and graft define a fluid flow path (30) through the aneurysm, wherein the path is a channel that passes the aneurysm (fig. 14).

Art Unit: 3738

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (703) 305-2812. The examiner can normally be reached on Monday through Friday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Cheryl Miller

August 7, 2003

Murin

BRUCE SNOW